**IN THE HIGH COURT OF UTTARANCHAL,**
**AT NAINITAL.**

**Civil Revision No. 272/2001**
**(Old No. 810/1990)**

Cooperative Cane Development Union Ltd.
Haldwani, Nainital Road, near Tikonia
Haldwani District Nainital, through Secretary
V.P. Malik …. Defendant-Revisionist.

Vs.

1- Bhuwan Chandra Pande S/o late Hira Ballabh Pandey,
R/o Bareilly Road, Haldwani,
District Nainital.

2- B.K. Pande, S/o late Daya Kishan Pande, R/o Elphinston Cottage, Nainital.
3- Prakash Chandra Pande/ S/o late Jagannath Pande,
R/o Bhoti Parao, Haldwani, Distt. Nainaital.
4- Ramesh Chandra Pande S/o late Jwala Datt Pandey,
R/o Tallital, District Nainital.
5- Gyanendra Chandra Joshi S/o late Padma Datt Joshi
R/o Bareilly Road, Haldwani
District Nainital … Plaintiffs/Opposite Parties.

Sri D.N. Sharma, counsel for the revisionist.
Sri Naresh Pant, learned counsel for the respondents.

**(Hon'ble B.C. Kandpal, J.)**

This revision, U/S 115 C.P.C. has been filed by the defendant, Cooperative Cane Development Union Ltd. Haldwani against the order dated 27-7-1990 passed by the Additional Civil Judge,Nainital, in O.S. No. 78 of 1985 Bhuwan Chandra Pande and others Vs. Cooperative Cane Development Union Ltd. Haldwani.

2- Brief facts of the case are that the plaintiffs/opposite parties filed a suit against the defendant/revisionist for eviction and mesne profit on the ground that the plaintiff/opposite parties are the owners and the trustees of the property in question, while the defendant/revisionists are the licensees. It has been alleged in the plaint that the property in question was given to the defendant/revisionists for a fixed term and the defendant/revisionists were the licensees over the property in question. After the term was

over the plaintiff- opposite parties terminated the license of the defendant/revisionists. The suit filed with the allegations that the defendant/revisionists are in unauthorized occupation over the property in question as their license has been terminated. The relief was claimed by way of the suit for eviction of the defendant/revisionist and restoration of the possession.

3- The defendant/revisionists filed the written statement alleging therein that the Civil Court has no jurisdiction to try the suit as the matter pertains between the landlord and tenant, therefore, Judge Small Cause Court has jurisdiction to decide the controversy.

4- The trial court framed issue No.3 in this regard and after hearing learned counsel for the parties and having perused the material on record, decided the issue against the defendant/revisionists, by holding that the Civil Court has jurisdiction to try the suit.

5- Feeling aggrieved by the aforesaid impugned order the revision was preferred before the Allahabad High Court, which was transferred to this court, after creation of new State.

6- The pith and substance of the plaint reveals that the plaintiffs have nowhere accepted the defendant/revisionists as tenant. The property in question has also not been given to the defendant/revisionists on rent. It has been averred in the plaint that under certain circumstances the property was given to the defendant/revisionists on a license and for a fixed term and after expiry of the term the license of the defendant/revisionists was terminated.

7- The material available on record clearly indicate that the plaintiffs/opposite parties have put the defendant/revisionists in the capacity of a licensee. Therefore, the suit for the eviction of a licensee after the termination of the license certainly can be instituted in the original civil side.

8- The court below has thus rightly observed that the civil court has jurisdiction to try the suit and I do not find any illegality, impropriety or incorrectness in the impugned order passed by Additional Civil Judge.

9- The revision lacks merit and is liable to be dismissed.

10- Accordingly the revision is dismissed. The impugned order dated 27-7-90, passed by Add. Civil Judge, Nainital, in O.S. No. 78 of 1985, is hereby confirmed. The stay order, if any, stands vacated.

**(B.C. Kandpal, J.)**

Dated: 29-11-2006
ISB